

“Kickbacks” in Federally Funded Construction

Copeland Act (18 USC §874 and 40 USC §276c; 29 CFR Part 3)

Who is Covered

The “Anti-Kickback” section of the Copeland Act applies to all contractors and subcontractors performing on any federally funded or assisted contract for the construction, prosecution, completion, or repair of any public building or public work, except contracts for which the only federal assistance is a loan guarantee. This provision applies even where no labor standards statute covers the contract.

The regulations pertaining to Copeland Act payroll deductions and submittal of the weekly statement of compliance apply only to contractors and subcontractors performing on federally funded contracts in excess of \$2,000 and federally assisted contracts in excess of \$2,000 that are subject to federal wage standards.

Basic Provisions/Requirements

The “Anti-Kickback” section of the Act precludes a contractor or subcontractor from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment. The Act and implementing regulations require a contractor and subcontractor to submit a weekly statement of the wages paid to each employee performing on covered work during the preceding payroll period. The regulations also list payroll deductions that are permissible without the approval of the Secretary of Labor and those deductions that require consent of the Secretary of Labor.

Employee Rights

The “Anti-Kickback” provisions of the Copeland Act give covered workers on subject federal contracts the right to receive the full pay to which they are entitled for the work they perform. The Act also gives such workers the right to receive pay on a weekly basis. The Wage and Hour Division (www.wagehour.dol.gov) of the Department of Labor’s Employment Standards Administration accepts complaints of alleged Copeland Act wage violations.

Compliance Assistance Available

The Wage and Hour Division (www.wagehour.dol.gov) of the Employment Standards Administration enforces the provisions of the Act and implementing regulations. More

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detailed information, including copies of the regulatory materials, may be obtained by contacting the Wage and Hour Division's local offices (www.dol.gov/esa/contacts/whd/america2.htm). Compliance assistance information may also be obtained on the Wage and Hour Division's Web site (www.wagehour.dol.gov) or by contacting the Wage and Hour Division help line at 1-866-4USWAGE.

Penalties/Sanctions

Any contractor or subcontractor who induces an employee working on a covered contract to give up any part of the compensation to which he or she is entitled is subject to a \$5,000 fine, or imprisonment for up to five years, or both. Willful falsification of the statement of compliance may subject the employer to civil or criminal prosecution and may be cause for contract termination or debarment. Contractors may challenge determinations on debarment before an Administrative Law Judge. Decisions of Administrative Law Judges may be appealed to the Administrative Review Board. Final determinations on debarment may be appealed to and are enforceable through the federal courts. Civil and criminal sanctions are pursued through the federal courts.

Relation to State, Local, and Other Federal Laws

The "Anti-Kickback" provisions apply to any contract assisted in whole or in part by loans or grants from the federal government, except those contracts where the only federal assistance is a loan guarantee. The provisions of the Act and the regulation pertaining to the weekly statement of wages and payroll deductions apply to federally assisted contracts that are subject to federal wage standards.